

**BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

**DIRECTOR OF THE DEPARTMENT)
OF INSURANCE, FINANCIAL)
INSTITUTIONS & PROFESSIONAL)
REGISTRATION)
STATE OF MISSOURI,)**

Petitioner,)

vs.)

MONTY R. SMITH)

Respondent.)

Serve:)

608 Southwest 3rd Street)

Lee's Summit, Missouri 64063)

And)

P.O. Box 970)

Lee's Summit, Missouri 64063)

Case No.: _____

FILED
APR 22 2009
ADMINISTRATIVE HEARING
COMMISSION

COMPLAINT

The Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, complains and requests the Administrative Hearing Commission find that cause exists to discipline the license held by Respondent, Monty R. Smith, because:

1. Petitioner is the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration. The Director has the duty to administer Chapters 374 and 375, RSMo, which includes the supervision, regulation, and discipline of insurance companies, agencies, and producers licensed to operate and conduct business in the State of Missouri.

2. The Department of Insurance, Financial Institutions and Professional Registration issued Respondent Monty R. Smith an insurance producer license (No. PR0218027) on December 20, 2001. Such license is set to expire on December 20, 2009.

3. Section 375.141.1(8), RSMo (Supp. 2008) provides that:

1. The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

...

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

4. 20 CSR 700-1.140(3) Minimum Standards of Competency and Trustworthiness for Insurance Producers Concerning Personal Insurance Transactions effectuates and aids in the interpretation of § 375.141.1(8), RSMo, and states:

No insurance producer shall obtain or solicit for a loan from an insurance client or former or prospective insurance client or any type of ownership interest in any insurance policy held by an insurance client or former or prospective insurance client. This prohibition shall not apply—

(A) When it is the usual occupation or practice of the insurance client or former or prospective insurance client to receive and process loan applications and to provide loans to the public as an owner, officer, director, or employee of an institution in the business of providing such loans; or

(B) When there exists a relationship between the insurance client or former or prospective insurance client and the insurance producer which gives rise to an insurable interest.

5. The Commission has jurisdiction over this Complaint pursuant to § 621.045, RSMo (Supp. 2008).

6. Respondent obtained a loan from an insurance client in violation of 20 CSR 700-1.140(3), which is grounds to discipline Respondent's insurance producer license pursuant to § 375.141.1(8), RSMo (Supp. 2008).

7. The facts are as follows:

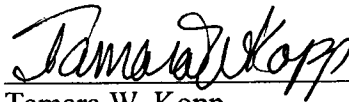
- a. On or about March 9, 2006, Helen Lea wrote a check to Respondent for \$5,700, and, in return, Respondent wrote a check to Ms. Lea for \$6,000 to be cashed at an undetermined future date.
- b. When Ms. Lea deposited Respondent's \$6,000 check on or about September 2, 2006, the check was returned to Ms. Lea for insufficient funds.

8. Respondent's acceptance of a loan from an insurance client violated 20 CSR 700-1.140 and constitutes grounds to discipline his insurance producer license pursuant to § 375.141.1(8), RSMo (Supp. 2008).

9. Respondent's failure to maintain adequate funds in the account on which he wrote a \$6,000 check to Ms. Lea also shows financial irresponsibility and constitutes grounds to discipline his insurance producer license pursuant to § 375.141.1(8), RSMo (Supp. 2008).

WHEREFORE, based on the foregoing, Petitioner respectfully requests that the Commission make findings of fact and conclusions of law stating that Petitioner has established cause to discipline Respondent Monty R. Smith's Missouri insurance producer license pursuant to § 375.141.1(8), RSMo (Supp. 2008).

Respectfully submitted,



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